

MEMORANDUM

SUBJECT: Transmittal of the Revised Model Comfort Letter Clarifying
NPL Listing, Uncontaminated Parcel Determinations, and CERCLA
Liability Involving Transfers of Federally Owned Property

FROM: Elliott P. Laws
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TO: Director, Waste Management Division
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Region II
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Regions III, VI, VIII, IX
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Regional Counsel, Office of Regional Counsel
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This memorandum transmits EPA's revised model comfort letter which addresses various issues concerning perceived National Priorities List (NPL) stigma and Superfund liability. The revised model comfort letter supersedes the August 9, 1995 model comfort letter, and is in response to comments received on that model. Specifically, in the NPL site context, the revision further clarifies that property that is not contaminated means property where no releases have occurred.

The revised model comfort letter is intended to be another tool that the Agency can use to address the often unwarranted stigma of NPL listing of closing military bases. As with the August 9, 1995 model, the revised model clarifies some common misunderstandings about NPL listing and CERCLA liability, and highlights certain provisions concerning the transfer of federally owned property. The revised model maintains the August 9, 1995 model clarification that EPA's CERCLA section 120(h)(3) determination that a remedy is operating properly and successfully, and concurrence on uncontaminated parcel identifications under CERCLA section 120(h)(4), do not affect NPL status, because such actions do not constitute Agency rulemaking.

As discussed in the revised model, property that has not been contaminated (i.e., no releases), unlike property where a response has been completed, can be characterized as never having been part of the NPL site.

The Regions are encouraged to utilize this model as part of the Agency's efforts to promote the reuse of closing military installations. In addition, the NPL listing and liability portions of the model can also be used for non-federal sites.

If you have any questions or comments regarding the attached model comfort letter, please have your staff contact Seth Thomas Low at (202) 260-8692 or Patricia Gowland at (703) 603-8721.

Attachments

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